

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

BROADWAY FORD TRUCK SALES, )  
INC., )

Plaintiff, )

vs. )

Case No. 4:21 CV 218 CDP

ALPHA MOWING & LANDSCAPING, )  
LLC, et al., )

Defendants/Counter Plaintiffs, )

vs. )

CLEMENS INS. AGENCY, INC., )

Counter Defendant. )

**MEMORANDUM AND ORDER**

This matter is before the Court on plaintiff's motion to dismiss defendants' counterclaim for failure to state a claim under Fed. R. Civ. P. 12(b)(6) and motion to strike defendant's first and second affirmative defenses to the complaint as improper defenses to plaintiff's breach of contract and negligence claims.


Defendants have not responded to these motions, and their time for doing so has long ago expired. Having reviewed these unopposed motions under the relevant

standards, I conclude that plaintiff's motions should be granted for the reasons set out in the motions.

Accordingly,

**IT IS HEREBY ORDERED** that the motion to dismiss [9] is granted, and defendants' counterclaim is dismissed.

**IT IS FURTHER ORDERED** that the motion to strike [10] is granted, and defendants' first and second affirmative defenses are stricken from their Answer [7].

  
CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE

Dated this 29th day of September, 2021.